

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

U.S. BANK AS TRUSTEE FOR GSAA)
HOME EQUITY TRUST 2006-9, ASSET-)
BACKED CERTIFICATES, SERIES 2006-9,)
Plaintiff,)
vs.)
DIAMOND CREEK HOMEOWNERS')
ASSOCIATION, *et al.*,)
Defendants.)

Case No.: 2:15-cv-01177-GMN-NJK

ORDER

On May 22, 2018, the Court granted summary judgment to Plaintiff U.S. Bank, (“Plaintiff”) because, under *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), the Diamond Creek Community Association (“HOA”) “foreclosed under a facially unconstitutional notice scheme” and therefore the “foreclosure sale cannot have extinguished” Plaintiff’s deed of trust on the property. (Order 6:1–3, ECF No. 110). The Ninth Circuit has since held, however, that Nevada’s homeowner’s association foreclosure scheme is not facially unconstitutional because the decision in *Bourne Valley* was based on a construction of Nevada law that the Nevada Supreme Court has since made clear was incorrect. *See Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass’n*, 920 F.3d 620, 624 (9th Cir. 2019) (recognizing that *Bourne Valley* “no longer controls the analysis” in light of *SFR Investments Pool1, LLC v. Bank of New York Mellon*, 422 P.3d 1248 (Nev. 2018)). Moreover, for orders from this district that relied on *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), and were thereafter appealed, the Ninth Circuit recently began reversing and remanding such orders in light of *Bank of Am., N.A. v. Arlington W. Twilight Homeowners*

1 *Ass'n*, 920 F.3d 620, 624 (9th Cir. 2019). *See, e.g., U.S. Bank, N.A. v. SFR Investments Pool 1,*
2 *LLC*, No. 18-16006, 2019 WL 6817304, at *1 (9th Cir. Dec. 13, 2019).

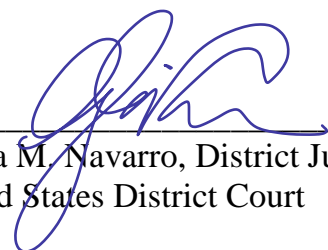
3 Accordingly, to preserve judicial resources,

4 **IT IS HEREBY ORDERED** that the Court's prior Order, (ECF No. 110), is
5 **VACATED.**

6 **IT IS FURTHER ORDERED** that the parties shall have thirty days from the date of
7 this Order to file renewed dispositive motions.

8 The Clerk of Court shall reopen the case and deliver a copy of this Order to the United
9 States Court of Appeals for the Ninth Circuit, Appeal Number 18-16164.

10
11 **DATED** this 18 day of December, 2019.

12
13 
14 _____
15 Gloria M. Navarro, District Judge
16 United States District Court
17
18
19
20
21
22
23
24
25